

DEATH PENALTY.

169

Chapter 205.

CHAP. 205

An Act to restore the death penalty for murder in the first degree.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECT. 1. When murder is committed with express malice aforethought, or in perpetrating or attempting to perpetrate a crime punishable by death, imprisonment for life, or for an unlimited term of years, it shall be deemed murder of the first degree, and punished with death.

Murder in the first degree, defined.

SECT. 2. When any person is convicted of a crime punishable with death and sentenced therefor, the time for the execution of such sentence shall be fixed by the court, which time shall be not less than twelve months nor more than fifteen months from the day on which such sentence is passed, and the convict shall, at the same time be sentenced to confinement in the state prison until such punishment is inflicted.

Time for execution in capital cases to be fixed by the court.

SECT. 3. The governor shall seasonably issue his warrant under the great seal of the state, directed to the sheriff of the county wherein the state prison is situated, or one of his deputies, commanding him to carry such sentence into execution at the time fixed by the court, unless the governor, with advice of council, shall pardon or reprieve the convict, or commute his sentence.

Warrant for execution, when and to whom issued.

SECT. 4. Chapter one hundred and fourteen of the public acts of eighteen hundred and seventy-six, sections eight and nine of chapter one hundred and thirty-five of the revised statutes, chapter ninety of the public laws of eighteen hundred and seventy-nine, as amended by chapter one hundred and seventy-eight of the public laws of eighteen hundred and eighty, and chapter two hundred and seven of the public laws of eighteen hundred and eighty, and all other acts and parts of acts, inconsistent with this act, are repealed.

Inconsistent acts repealed.

SECT. 5. Sections seven, ten and eleven of chapter one hundred and thirty-five of the revised statutes are revived.

Certain sections of ch. 135, revived.

SECT. 6. Section twelve of chapter one hundred and thirty-four of the revised statutes is amended by inserting after the word "ten," in line eleven, the words 'nor the state more than five;' also by substituting for the word "he," in line twelve, the words 'such person,' so that said section, as amended, shall read as follows :

Sec. 12, ch. 135, R. S., amended.

CHAP. 205

Jury for trial,
how impaneled.

Challenges.

Rules by the S.
J. court.

Ch. 237, public
laws 1874,
amended.

Persons indicted
for crime punish-
able by imprison-
ment, to be
furnished copy of
indictment.

Counsel to be
assigned in
capital cases.

—compensation.

When motion for
new trial is de-
nied by justice
hearing same,
respondent may
appeal to next
law term.

SECT. 12. When a person indicted for an offense punishable with death is put upon his trial, the clerk, under the direction of the court, shall place the names of all the traverse jurors summoned and in attendance, in a box, upon separate tickets, and the names, after being mixed, shall be drawn from the box by the clerk, one at a time, for the purpose of constituting a jury of trial. All peremptory challenges, except as herein provided, and all other challenges and objections to the juror drawn, shall be made and determined and the juror sworn or set aside before another name is drawn, and so on until the panel is completed. The person indicted shall not challenge, peremptorily, more than twenty, nor the state more than five of the jurors while the panel is being formed; but such person may, before the trial commences, challenge, peremptorily, two of the jurors from the panel. The supreme judicial court may, by general rules, prescribe the mode of exercising the latter right of challenge, and said section, as amended, is revived.'

SECT. 7. Chapter two hundred and thirty-seven of the public laws of eighteen hundred and seventy-four is amended by substituting the word 'county' for "state," in line eleven, so that said section, as amended, shall read as follows: 'The clerk shall, without charge, furnish to any person indicted for a crime punishable by imprisonment in the state prison, a copy of the indictment. If he is indicted for a crime punishable by death or imprisonment in the state prison for life, he shall furnish a copy of the indictment, a list of the jurors returned, and process to obtain witnesses, to be summoned and paid at the expense of the state; but in all cases where the punishment of the crime charged in the indictment may be simply for a term of years, witnesses shall be summoned and paid at the expense of the state only at the discretion of the court. Competent counsel shall be assigned by the court in capital cases, when it appears that the accused has not sufficient means to employ counsel; and reasonable compensation, not exceeding one hundred and fifty dollars in all at any one trial, shall be allowed by the court, to be paid out of the county treasury.'

SECT. 8. If a motion for new trial in a capital case is denied by the justice before whom the same is heard, the respondent may appeal from said decision to the next law

term for such district; and the concurrence of but three CHAP. 206 justices shall be necessary to grant such motion.

SECT. 9. If a person convicted under section one is, at the time when motion for sentence is made, found, to the satisfaction of the court, to be insane, the court may cause such person to be removed to the insane hospital for such a term and under such limitations as it may direct.

Court may order removal of persons convicted of murder, to insane hospital, if found insane when motion is made for sentence.

SECT. 10. If it appears to the satisfaction of the governor and council that a convict under sentence of death has become insane, the execution of said sentence may be respited by the governor, with the advice of council, from time to time for stated periods, until they are satisfied that the convict is no longer insane.

Person under sentence, becoming insane, may be respited.

SECT. 11. The governor, with the advice of council, may respite, from time to time, the execution of a sentence of death, for stated periods, so long as he may deem it necessary to afford him an opportunity of exercising his right of pardon and of investigating and considering the facts of the case for that purpose.

Governor may respite with view of exercising the pardoning power.

Approved March 13, 1883.
